

Comments to the FDA should be sent to the following address:

**Dockets Management Branch (HFA-305)
Docket No. 95N-0253
Food And Drug Administration, Room 1-23
12420 Parklawn Drive
Rockville, MD 20857**

Note: If you are submitting a letter to the FDA docket as an individual citizen, only your original letter is needed. If, however, you are writing on behalf of a business, you must submit four copies, along with the original, and mail them in the same envelope to the above address.

Second, write to your members of Congress. Several legislative proposals have already been introduced on Capitol Hill to counter the FDA's plan. Your legislators need to know that there is strong public opposition to the FDA's attempt to regulate cigarettes. If you do not know the names of your two U.S. senators or your U.S. representative, you can call your local board of elections to find out.

Q. How committed is Philip Morris to fighting the FDA plan?

A. Philip Morris is completely committed to taking all reasonable steps to see that kids don't smoke. We are also prepared to use all of the resources at our disposal to fight as long and as hard as we must to preserve our right to manufacture and market - and retailers' right to sell - our legal tobacco products to adults.

Message Points

If you agree that FDA regulation of cigarettes is illegal and unwarranted, you may want to incorporate some of the following message points in your letters.

- Youth smoking is not the issue. Everyone agrees that minors should not smoke, but the regulations released by the FDA are so extreme that they would interfere with the marketing and sale of cigarettes to adult smokers.

- FDA regulation of cigarettes is illegal. Congress, and only Congress, has the authority to permit the FDA to regulate cigarettes. And in the more than 80 times that Congress has amended legislation governing the FDA's jurisdiction, it has never given the FDA any authority over tobacco.

- Americans want less government regulation in their lives. The November 1994 elections sent a clear message that Americans are tired of excessive government interference in their lives. Granting the FDA regulatory authority over cigarettes is a good example of the type of federal interference Americans do not want.

- The FDA is already unable to meet its core mandate of approving new drugs and medical devices and ensuring the safety of the nation's food supply. It is ridiculous to expand the FDA's regulatory authority to take on a whole new industry at a time when hundreds of important drugs and treatments await consideration.

- There is simply no reason to extend jurisdiction of tobacco products to the FDA. Several federal and state agencies already have regulatory authority over the production, marketing, sale and use of cigarettes. Laws are already on the books in every state that prohibit the sale of cigarettes to minors. Let's do a better job of enforcing existing laws before adding to the existing government bureaucracy. □

FDA Regulation of Cigarettes is Illegal and Unwarranted

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Earlier this year, the U.S. Food and Drug Administration (FDA) announced that it was asserting jurisdiction over cigarettes and smokeless tobacco products, and unveiled an unprecedented plan to regulate the marketing and sale of these products.

FDA Commissioner David Kessler claims that the severe restrictions he has outlined are designed to prevent minors from smoking.

Philip Morris U.S.A. strongly agrees with this goal, and that is why earlier this year we launched Action Against Access – a voluntary, comprehensive plan to deny access to cigarettes to minors.

Despite our strong commitment to addressing the youth smoking issue, we do not believe that the FDA has the authority to regulate cigarettes. Only Congress has the authority to change the FDA's mandate, and in the more than 80 times that Congress has amended legislation governing the FDA's jurisdiction, it has never given the FDA any authority over tobacco.

Because we believe that FDA regulation of cigarettes is illegal, Philip Morris has joined with members of the tobacco and advertising industries to sue the FDA in federal court. The suit alleges the FDA has exceeded its authority, and seeks to block the agency's illegal attempt to regulate tobacco. Other interested parties have brought their own lawsuits.

What would the FDA plan do?

Among other restrictions, the FDA plan to regulate cigarettes would:

- Ban all self-service displays of cigarettes at retail.
- Prohibit sale or distribution of all cigarette branded promotional items, such as hats, shirts, bags, sunglasses, pens, etc.
- Limit point-of-sale advertising for cigarettes to black and white text only – no color or other visuals would be allowed.
- Prohibit cigarette brand sponsorship of all sports and cultural events.
- Ban cigarette billboards within 1,000 feet of any school or playground; all remaining outdoor advertisements for cigarettes would be limited to black and white text only.
- Require that the words, "Cigarettes – A Nicotine-Delivery Device" appear in all advertisements and labeling.
- Limit brand image advertising to adult newspapers, magazines and other periodicals in which at least 85 percent of readership is 18 years old or older.
- Allow states to establish marketing and sales restrictions that are even more stringent than the federal laws.
- Require cigarette manufacturers to spend \$150 million a year to pay for a national public educational program to discourage persons under 18 from using cigarettes. The major portion of this program must appear on television.

Questions and Answers

Q. Is this a "done deal" or not?

A. There's a good chance that legal challenges, combined with an outpouring of adverse public opinion, will derail the plan. That's why it is important for all concerned adults who oppose the plan to speak out against it.

Q. I don't think kids should smoke, so why should I oppose this?

A. Philip Morris doesn't want kids to smoke either. The FDA action isn't about youth smoking – it's a back-door attempt by the FDA to ban the sale of cigarettes.

Philip Morris has long believed that minors should not smoke or have access to cigarettes. That is why we launched Action Against Access, which includes the "Ask First/It's the Law" retail program.

The ultimate goal of Action Against Access and "Ask First" is to create a retail environment where minors cannot obtain cigarettes.

Q. What can I do to help prevent this plan from becoming law?

A. There are two things concerned Americans can do to oppose this effort.

First, write to the FDA. The FDA will accept comments from the public on this issue until January 2, 1996.

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